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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/046,280 | 01/16/2002 | Troy Delzer | 53394.000549 | 2375 |

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT PAPER NUMBER

3761

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

5/11

| | | | |
|------------------------------|-------------------------------|-------------------------------|--|
| Office Action Summary | Application No. 10/046,280 | Applicant(s) DELZER ET AL. | |
| | Examiner C. Lynne Anderson | Art Unit 3761 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) 32-56 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some * c) ☐ None of:
 - 1. ☐ Certified copies of the priority documents have been received.
 - 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>6/14/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of claims 1-31 in the reply filed on 22 April 2005 is acknowledged.

Claims 32-56 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 22 April 2005.

Claim Objections

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 31-31 have been renumbered claims 31-33.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Delzer et al. (6,832,905).

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Delzer discloses an apparatus for depositing particulate matter 326 into a supply of fibrous material 312, as shown in figure 3. A feed tray 334 has an outlet 406 positioned above the supply of fibrous material, as shown in figure 4. A motor 340 is coupled to the feed tray 334 for vibrating the feed tray 334, as disclosed in column 24, lines 44-47. When the motor 340 does not vibrate the feed tray 334, substantially no

particulate matter 326 is deposited into the supply of fibrous material 312, as disclosed in column 25, lines 2-10.

With respect to claim 2, the particulate matter 326 comprises superabsorbent particles, as disclosed in column 23, lines 40-41.

With respect to claim 3, the fibrous material 312 comprises an opened tow of cellulose acetate, as disclosed in column 13, lines 1-15 and 32-35.

With respect to claims 4-6, the apparatus forms a composite having about 50% particulate matter and 50% fibrous material, as disclosed in column 12, lines 22-49.

With respect to claims 7-9, the particulate matter is deposited at a flow rate of up to about 15,000 g/min, as disclosed in column 28, lines 38-42.

With respect to claim 10, the motor is an electric vibrator.

With respect to claims 11-13, the motor vibrates at up to 600 Hz, as disclosed in column 28, lines 17-21.

With respect to claim 17, a control system increases or decreases the amount of particulate matter deposited by increasing or decreasing frequency, as disclosed in column 27, lines 1-2.

With respect to claim 18, the apparatus further comprises a gate 408, as shown in figure 4.

With respect to claim 19, the upstream portion of the pan is covered, as shown in figure 4.

With respect to claim 20, the height of the gate 408 is adjustable, as disclosed in column 23, lines 26-31.

With respect to claims 21-23, the gate 408 is spaced from the pan by a height of about 0.10 to about 1 inches, as disclosed in column 26, lines 9-11.

With respect to claim 24, a guide 410 is provided, as shown in figure 4.

With respect to claim 25, the pan is contoured, as shown in figure 4.

With respect to claims 26-30, a vacuum draw roll 322, as shown in figure 3, is located about 0.25 to about 4 inches from the outlet 406, as disclosed in column 25, lines 46-61.

With respect to claim 31, the active width is about 2 to about 12 inches, as disclosed in column 23, lines 53-55.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 4-6, 10, 17-2, and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen (5,807,364) in view of Klopfenstein et al. (4,100,984).

Hansen discloses all aspects of the claimed invention but remains silent as to the portion of the apparatus that deposits the particulate matter. Hansen discloses an apparatus for depositing particulate matter 84 into a supply of fibrous material 32, as shown in figure 2. The particulate matter 84 is deposited from a device 72 having an

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outlet positioned above the supply of fibrous material 32, as shown in figure 2. Hansen discloses in column 9, lines 8-10, that any suitable device for depositing the particulate matter may be used.

Klopfenstein teaches the use of a feed tray 2 for distributing particulate matter, as shown in figure 1. When a motor 3 vibrates the feed tray 2, particulate matter is deposited, and when the feed tray 2 is not vibrated, substantially no particulate matter is deposited, as disclosed in column 4, lines 37-42. The use of the vibrating feed tray provides precision in the depositing of the particulate matter, as disclosed in column 4, lines 33-52.

It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the apparatus of Hansen with a vibrating feed tray, as taught by Klopfenstein, to provide the apparatus with precision in depositing the particulate matter.

With respect to claim 2, the particulate matter comprises superabsorbent polymer, as disclosed in column 8, lines 52-56.

With respect to claims 4-6, the apparatus deposits between 0.05% and 80% particulate matter, as disclosed in column 14, lines 36-44.

With respect to claim 10, the motor 3 is an electric vibrator.

With respect to claim 17, increasing or decreasing the frequency of vibration inherently increases or decreases the amount of particulate matter deposited.

With respect to claim 18, Klopfenstein discloses a gate 12, as shown in figure 1.

With respect to claim 19, the pan 2 is covered, as shown in figure 1.

With respect to claim 20, the gate 12 is adjustable, as disclosed in column 4, lines 31-36.

With respect to claims 24-25, the pan 2 comprises contoured sides that function to control the flow path of the particulate matter, as shown in figure 1.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents 4,340,556; 4,610,678; 4,655,757; and 5,378,528 disclose methods of depositing particulate matter into a fibrous web. U.S. Patents 5,967,333 and 6,310,454 teach the use of a vibrating feed tray in depositing particulate matter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CWA
cla

July 7, 2005

TATYANA ZALUKAEVA
PRIMARY EXAMINER

